

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN DONALD L. HEDGES**, on January 23, 2003  
at 8:10 A.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Donald L. Hedges, Chairman (R)  
Sen. Royal Johnson, Vice Chairman (R)  
Sen. John Esp (R)  
Rep. Eve Franklin (D)  
Rep. Dave Lewis (R)  
Sen. Bea McCarthy (D)

**Members Excused:** Rep. Rosalie (Rosie) Buzzas (D) Arrived at  
8:20 am

**Members Absent:** None.

**Staff Present:** Amy Carlson, OBPP  
Jim Standaert, Legislative Branch  
Diana Williams, Committee Secretary

**Audio-only Committees:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.  
Tape counter notations refer to the  
material immediately preceding.

**Committee Business Summary:**

Hearing & Date Posted: None

Executive Action: Office of Public Instruction Local  
Education Activities

The committee discussed the field trip to Montana State University that is scheduled for January 29, 2003.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 6}***

At the public hearing for OPI, **Kathy Fabiano, Assistant Superintendent, Department of Operations**, told the committee members she would supply them with the document that is used for reimbursements of bus transportation. See Exhibit 1 for details.

**EXHIBIT(jeh14a01)**

**Jim Standaert, Legislative Fiscal Division**, explained Exhibit 2. The first page is a summary, the second page are the new proposals and the third page contains the present law proposals. The new proposals are the Governor's proposed changes to the budget. If both of these packages are adopted, a cut of \$7.1 million will occur from the fiscal 2002 base for the 2005 biennium, with the present law adjustments having approximately \$2 million cut, and for the new proposals, \$5 million.

**EXHIBIT(jeh14a02)**

***{Tape: 1; Side: A; Approx. Time Counter: 8.4 - 9.7}***

**Mr. Standaert** explained each of the seven new proposals so the committee could understand the impact. The new proposals can be found on Page 2 of Exhibit 2. The committee members had questions on some of the new proposals.

The first proposal is DP8210, or LC1487, which deals with three-year averaging. The committee was informed that the minor definition of changing ANB, which is on page E-25 from the Legislative Budget Analysis 2005 Biennium is no longer part of this proposal.

***{Tape: 1; Side: A; Approx. Time Counter: 9.8 - 18.3}***

**Mr. Standaert** explained that this proposal, LC1487, requires districts to average both when they have increasing and decreasing enrollment. The cost of that would be about \$7.1 million and the cost for OPI's proposal, which doesn't require averaging when the districts have an increase in students, would be \$12.5 million. The count is done in October and February and then averaged.

Through questions and answers the committee learned that the three-year averaging is helpful to the districts. Besides averaging, the influx of students was addressed. The committee

learned that when there is an influx of students in the district, there is a possibility for the district to apply for state aid, if there is a 6% increase in the enrollment. The school district would have to verify that influx before the additional funding could occur.

***{Tape: 1; Side: A; Approx. Time Counter: 18.4 - 27}***

The second proposal discussed was DP8240 or HB345, which would use the TSEP interest earnings to fund the new State Special Facility Account. Presently TSEP funding is used for conservation districts, water and sewer districts, and the like.

**Ms. Carlson, OBPP**, explained that this facility account is presently funded through the general fund (\$4.1 million per year) and if this bill is passed the funding would be available through TSEP interest.

**Mr. Standaert** explained that there would be \$7 million less needed in the general fund and \$8 million more received through the TSEP interest that would fund this account.

**REP. BUZZAS** said that this is 50% of the Treasure State Endowment Program (TSEP). She wanted to know the impact on the fund as well as the impact on the list of people who are in line who want to use the funds.

**REP. LEWIS** said that this proposal would cut the fund in about half. The list of applicants would also be cut and he could provide that information at a later date.

***{Tape: 1; Side: A; Approx. Time Counter: 27.1 - 30.2}***

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.2}***

It was brought up that there are other bills presently in this legislature that will want to use TSEP funding.

**SEN. JOHNSON** said that with the local people who have been waiting on the list for TSEP money, they believe that this bill wouldn't be to healthy for their community.

**REP. FRANKLIN** said that it would be better to accept the present law budget because the other money is funny money. Education is going to be fighting with other people to get the funds.

***{Tape: 1; Side: B; Approx. Time Counter: 1.2 - 8.7}***

**Mr. Standaert**, explained that this 50% diversion of TSEP funds would be permanent. This diversion wouldn't be for this biennium only. There would be no sunset and could only be changed by one legislature.

**Ms. Carlson** said that for the purpose of clarification, \$4.36 million would be locked in and it would be ongoing.

**{Tape: 1; Side: B; Approx. Time Counter: 8.7 - 9.7}**

The third new proposal that **Mr. Standaert** explained was DP8270 or LC1323. There are 3 parts to this proposal. An increase in entitlement would allow an increase in spending by \$22 million in the state funds. The reduction of Direct State Aid (DSA) would have a savings of \$16 million. And with the retirement proposal, an additional \$7.8 million would be saved. The net impact of this bill would be \$1.8 million savings for the biennium to the state.

**SEN. MCCARTHY** asked for clarification of the changes that would occur in the retirement fund if this bill was passed.

**Mr. Standaert** said that there would be very real consequences if this bill is passed. Under current law, the county retirement fund is funded by county taxes and State Guarantee Tax Base (GTB). The fund pays for the retirement costs for all the employees in the district that are working for state dollars and local dollars as well as for federal employees. This proposal is requesting that the federal government pay for its own federal retirement. And that each fund other than the general fund pay for its own retirement costs. This proposal would reduce county taxes.

**CHAIRMAN HEDGES** said that the consequences of this bill if passed, would be that the federal money that is generally used for an instructor may have to be used for retirement. So a reduction in staff may occur.

**REP. BUZZAS** wanted to know if relying on federal dollars may be risky right now due to the national situation.

**Ms. Carlson** explained that quite a bit of the increase occurred in fiscal 2003, so a large amount is locked in. A small portion is risky and a big portion is available.

**SEN. MCCARTHY** said that OPI is proposing to hire five new employees to fulfill the requirements of the No Child Left Behind Act. These positions will be funded through federal dollars that are allocated once for a set amount. By passing this bill, OPI may only be able to hire four employees since a portion of the allocated money may have to go to the retirement system.

**{Tape: 1; Side: B; Approx. Time Counter: 9.7 - 17.2}**

**Ms. Carlson** explained Exhibit 3, the fiscal impacts of LC 1323. Three entities will be impacted by this proposal. They are the district, the State General Fund and the taxpayers.

The impact on the district would be a reduction as well as additional spending authority. The reductions would be through the expenditures in the retirement fund that are using general funds to support it as well as county taxes would be reduced. There is also an anticipated reduction in county levies. This reduction in the retirement funds would allow the potential change for transportation to gain \$22 million. There would also be an additional entitlement increase that would be able to be funded as a result of this proposal. It frees up money to add an additional 2% in the first year and 1% in the second. In addition, federal revenues will be used. The values on Exhibit 3 were taken from the DP packages and they are summarized on page E-15 from the Legislative Budget Analysis 2005 Biennium which is Exhibit 4. Over a zero percent increase it gives additional spending authority at the local level. The net impact at the State level for Fiscal 2004, is an additional \$25.20 million and in Fiscal 2005 \$38.42 million.

The State General Fund would have a net saving of \$1.8 million for the biennium. And for the taxpayers it is basically a wash.

**EXHIBIT(jeh14a03)**

**EXHIBIT(jeh14a04)**

**{Tape: 1; Side: B; Approx. Time Counter: 17.2 - 21.2}**

**REP. BUZZAS** stated that with more spending authority, the districts could increase property taxes.

**Ms. Carlson** stated that the automatic tax increases resulting in this proposal are factored through to the base budget. With districts having more spending authority, this increase was not factored in on the tax side because it is a local choice.

**{Tape: 1; Side: B; Approx. Time Counter: 21.2 - 22.9}**

**Mr. Standaert** further explained Exhibit 2, Page 2. With DP8250 or HB113 the proposal is to use the \$1.9 million over the biennium generated from timber sales to be used to pay for BASE Aid in the guarantee account. Under current statute, the money comes in one year and gets spent the next year for technology grants, so the \$1 million generated for Fiscal 2004 would be

available to spend on BASE aid if this bill is passed. This proposal would pay for the BASE aid increases that are occurring in this biennium.

**REP. FRANKLIN** wanted to know what this bill would do for the School of Technology Program. **Ms. Carlson** said the program would be delayed two more years in HB113

**{Tape: 1; Side: B; Approx. Time Counter: 22.9 - 24.8}**

The next proposal that **Mr. Standaert** explained was DP8220 or LC1317. This package deals with two proposals regarding transportation & school facilities. The School Facility HB 124 Block Grants would be eliminated and one-half of the Transportation HB 124 Block Grants would also be eliminated. To replace the money there would be an increase in state spending for transportation. The rate per mile on each bus size would be increased enough to generate \$1.7 million. As far as the school facility program, it would be paid through the new expanded school facility program. The net effect on the general funds would be zero.

Through discussion, **Mr. Standaert** said that some districts would experience increase in their local taxes because they get HB 124 Block grants which they won't get back in transportation or school facility money. There would be a redistribution of the tax burden. **SEN. McCARTHY** would like to have a chart that shows how this proposal would affect the different school districts. **Ms. Carlson** is working on this proposal. The transportation part is just one piece. Looking at the whole proposal was advised.

**{Tape: 1; Side: B; Approx. Time Counter: 24.9 - 28.8}**

**{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.8}**

**SEN. McCARTHY** made the point that if the six large school districts of the State would like to contribute to the small ones it wouldn't bother her, but if it is reversed it would. Other members on the committee voiced the same concern.

**Mr. Standaert** said that approximately 1/2 of the HB 124 grants are going back to where motor vehicles are located because we are basically reimbursing for the loss by the districts of their motor vehicle revenue when they gave those up to the state general fund. In that sense it will follow the kids. The other 1/2 are reimbursements for prior property tax reductions for personal property, electrical generating plants and telecommunications property. Those reimbursements didn't follow the kids. When HB 124 reimbursements are retained by the State and then spread through the transportation formula which does

follow the kids, changes in property taxes at the local level would be the result.

***{Tape: 2; Side: A; Approx. Time Counter: 0.8 - 2.6}***

**Mr. Standaert** explained the sixth new proposal which is LC1310 or DP8290. This would postpone the growth in HB 124 Block grants (county education block grants), which will save money. Currently the grants are at 0.76 percent growth rate and this proposal would drop it to 0.00 percent. These are the county transportation fund, and two county retirement funds. This is for one biennium only and then these funds would grow at 0.76 percent after that. Clarification was done on the growth rate. For county government the growth is 2.3 percent and cities it is 3.0 percent.

And the last new proposal that **Mr. Standaert** talked about was HB107 or DP8230 which is the Teacher Loan repayment program.

***{Tape: 2; Side: A; Approx. Time Counter: 2.6 - 4.9}***

**EXECUTIVE ACTION ON OFFICE OF PUBLIC INSTRUCTION (OPI)**  
**LOCAL EDUCATION ACTIVITIES**

**Motion/Vote:** SEN. JOHNSON moved that **THE GENERAL FUND PRESENT LAW PROPOSALS FOR \$1,897,791 IN THE BIENNIUM DO PASS. Motion carried 7-0 by roll call vote.** (See page 3 on Exhibit 2 for details. In addition DP 50 is not explained in the Legislative Budget Analysis 2005 Biennium. It was created later at the request of Terry Johnson. DP 50 and DP 49 equal the amount of the old DP 49. Both involve the fund switch from the general fund to the guarantee fund.)

***{Tape: 2; Side: A; Approx. Time Counter: 4.9 - 6.4}***

**Motion:** SEN. JOHNSON moved that **THE FEDERAL FUNDS DO PASS.**

**Discussion:**

**Mr. Standaert** explained that the only federal funds in these Decision Packages is the federal grant award. It is DP 31 which is asking for an increase of \$16.9 million in Fiscal 2004 and \$21.4 million in Fiscal 2005.

**EXHIBIT(jeh14a05)**

**Vote:** Motion carried 7-0 by roll call vote.

***{Tape: 2; Side: A; Approx. Time Counter: 6.4 - 8}***

**Motion:** SEN. JOHNSON moved **STATE SPECIAL FUNDS (DP 49) DO PASS.**  
(The general funds on DP 49, the Guarantee Account, were previously adopted and the impact on the funds for DP 49 can be seen on Exhibit 5 and is \$156,750).

**Discussion:**

**Mr. Standaert** explained that \$156,750 State Special was spent for technology from the timber account in 2002 and these funds are getting backed out of present law because it is now in the guarantee account which is a statutory account.

**Vote:** Motion carried 7-0 by roll call vote.

***{Tape: 2; Side: A; Approx. Time Counter: 8 - 9.3}***

**Motion/Vote:** REP. BUZZAS moved that **FEDERAL SPECIAL PORTION OF THE NEW PROPOSALS DO PASS. Motion carried 7-0 by roll call vote.**  
(This is DP 32, DP 39 DP 41 and DP 43 for \$6,398,056 in Fiscal 2004 and \$6,483,056 in Fiscal 2005. See Exhibit 6 for more details.)

**EXHIBIT(jeh14a06)**

***{Tape: 2; Side: A; Approx. Time Counter: 9.3 - 11.2}***

**Motion/Vote:** REP. LEWIS moved that **THE BIENNIAL APPROPRIATIONS IN HB 2 LANGUAGE BE ADOPTED. Motion carried 7-0 by voice vote.**  
(See Exhibit 7 for explanation. **Mr. Standaert** further explained that this allows the agency to have authority to spend the money in any of the 2 years.)

**EXHIBIT(jeh14a07)**

***{Tape: 2; Side: A; Approx. Time Counter: 11.2 - 13}***

**Motion/Vote:** REP. LEWIS moved **LANGUAGE FOR STATE TRAFFIC EDUCATION. Motion carried 7-0 by voice vote.**

This is the distribution of special revenue received through driver license fees with a cap of \$1 million. **Mr. Standaert** stated that \$750,000 is expected to come in and be spent through the State Special account.

**EXHIBIT(jeh14a08)**



***{Tape: 2; Side: A; Approx. Time Counter: 13 - 14.1}***

**SEN. ESP** wanted to know if OPI could transfer any unused portion of the federal money that they would receive in this biennium to the next biennium.

**Ms. Fabiano** said that the federal funds are available for 27 months. The request for this biennium is for two years. If money is left over, OPI would still have to get approval in the next biennium to spend the money.

**REP. LEWIS** explained that the Office of Budget and Program Planning (OBPP) has requested that five accounts have a restricted appropriations classification for HB 2. The restriction is that the money that is appropriated for these accounts can only be used in these accounts. The money can not be moved to a different account. **REP. LEWIS** asked Mr. Standaert his opinion on this. **Mr. Standaert** said that has been the way it has been done for years.

**EXHIBIT(jeh14a09)**

**Motion/Vote:** **REP. LEWIS** moved that **RESTRICTED APPROPRIATIONS IN HB 2 LANGUAGE FOR BASE AID, SPECIAL EDUCATION, TRANSPORTATION, SCHOOL FACILITY REIMBURSEMENT AND BLOCK GRANTS (HB124) BE ADOPTED.** Motion carried 7-0 by voice vote.

***{Tape: 2; Side: A; Approx. Time Counter: 14.1 - 15.8}***

**Ms. Fabio**, explained that there are two additional language requests from OPI. Exhibit 10 states that OPI would like to appropriate \$175,000 in each year for distribution to schools from the federal Character Education grant. And with Exhibit 11 OPI is requesting additional special education monies, with an increase in state education funds of \$5.3 million over the biennium.

**EXHIBIT(jeh14a10)**

**EXHIBIT(jeh14a11)**

***{Tape: 2; Side: A; Approx. Time Counter: 15.8 - 16.5}***

**Motion:** SEN. McCARTHY moved that **THE SPECIAL EDUCATION NEW PROPOSAL AS EXPLAINED IN HANDOUT** (Exhibit 11) **DO PASS**.

**Discussion:**

**SEN. McCARTHY** explained that the federal laws (to provide the least restrictive environment) have tied the hands of the school districts. Inclusion is an expensive program.

**REP. BUZZAS** spoke in favor of the motion. Districts are increasingly having to take funds out of their general funds to supplement the cost of Special Education. There is a huge burden on school districts' budget and more general funds are going to special education.

**Mr. Standaert** further stated that with the increase in the State General Fund of \$1.7 million in the first year and \$3.5 million in the second year, there would also be a GTB impact that isn't taken into account here. The rough estimate would be between six and seven hundred thousand dollars.

**SEN. McCARTHY** further stated that it is part of our obligation to help these people and the earlier that happens, the greater the success rate for some of these children. Through intervention some young children can grow out of their disability which would save the State money.

**SEN. ESP** asked Mr. Standaert to elaborate on the effect on the Guarantee Tax Base (GTB).

**Mr. Standaert** said that the State spends \$32 million, \$33 million in special ed money. When districts build their general fund budget they add 40% of that in additional general fund budget authority under the base budget. That 40% is not paid for by the special ed money. It is paid by a combination of state GTB and local taxes. With \$5.2 million more in special ed authority that turns into an increase in guarantee tax base. A more precise calculation (from the six or seven hundred thousand stated above) is just under one million dollars.

It was further stated that the increase would be paid by local tax payers and would result in a local tax increase.

**REP. LEWIS** opposed the motion because the money isn't available. The plan here is to attempt to have funds become available through HB 74, the Coal Trust transfer bill. If passed, this bill would pay for the two percent and one percent increase (the \$22 million that the governor has in the budget) with additional money available to fund programs like special education. The

passage of this bill would also offset the need to pass all of the bills that the governor has laid out. Basically there isn't enough flexibility right now to address this funding. In addition to the Coal Trust transfer bill there are other controversial proposals like TSEP funding and the transfer of HB 124 Block grants.

**SEN. MCCARTHY** asked REP. LEWIS if the surplus money from the state fund could be used for this program.

**REP. LEWIS** said that if the money comes in, then negotiations could occur.

**REP. FRANKLIN** said that she would rather have special education get funded straight up, make the commitment and find the money. She felt that tying the funding mechanism to a highly risky proposal would be unfair. She believes that there are goofy funding switches that are in these Decision Packages.

**CHARIMAN HEDGES** believes that by passing this motion an empty promise would occur. Even though he was in agreement with SEN. MCCARTHY, he felt that the funding mechanism for Special Education might be better worked out when the proposed revenue enhancement proposals are passed. Once the revenue is found, then the essential ingredients for quality education could be looked at and maybe Special Education could receive additional funding.

**REP. BUZZAS** believed that this proposal is making a commitment that the Special Education funds will be available. She further said that when the passage of HB 107 occurred, the funds were not yet available, so the passage of HB 107 could also be considered an empty promise. By passing this motion, the commitment would be there to find the funds. This is the same type of commitment that will happen with HB 107, and all the other bills that are passed that deal with expenditures.

*{Tape: 2; Side: A; Approx. Time Counter: 16.5 - 30}*

**Vote:** Motion failed 3-4 by roll call vote with REPS. BUZZAS and FRANKLIN, and SEN. MCCARTHY voting aye.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 0.6}*

**Motion/Vote:** REP. BUZZAS moved to **AMEND HB2 TO FUND CHARACTER EDUCATION**. (This gives OPI the authority to accept and spend the federal money. This is a grant going to 5 rural schools in the state.) **Motion carried 7-0 by voice vote.**

***{Tape: 2; Side: B; Approx. Time Counter: 0.6 - 1.5}***

**Mr. Standaert** explained page E-14, from the Legislative Budget Analysis 2005 Biennium which are language recommendations and if adopted will be included in HB2.

**EXHIBIT(jeh14a12)**

**Motion/Vote:** SEN. McCARTHY moved LANGUAGE RECOMMENDATIONS PRESENTED ON PAGE E-14 (and is exhibit 12) FOR HB2. Motion carried 7-0 by voice vote.

***{Tape: 2; Side: B; Approx. Time Counter: 1.5 - 2.3}***

**Mr. Standaert** summed up the General Fund activity. If action is stopped right now, the committee has added an additional \$5 million above the Governor's proposal for distribution to schools.

***{Tape: 2; Side: B; Approx. Time Counter: 2.3 - 3.3}***

ADJOURNMENT

Adjournment: 9:40 A.M.

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REP. DONALD L. HEDGES, Chairman

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DIANA WILLIAMS, Secretary

DH/DW

***EXHIBIT*** (jeh14aad)